



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

June 22, 2017

Ms. Jennifer Stengel
Principal
10566 Memphis Street
Commerce City, CO 80022

Re: Brighton School District – Landmark Academy at Reunion
Case Number: 08-17-1119

Dear Principal Stengel:

This is to advise you of the resolution of the above-referenced complaint investigation of the Landmark Academy at Reunion (“Academy”) that is part of the Brighton School District (District) by the United States Department of Education (“Department”), Office for Civil Rights (“OCR”). The complaint was received on December 27, 2016, and alleged that the Academy was discriminating, on the basis of disability, because certain pages on the Academy’s website are not accessible to persons with disabilities.

OCR is responsible for enforcing section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 United States Code (U.S.C.) § 794, *et seq.*, and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. OCR also is responsible for enforcing title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131, *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from the Department and as a public entity, the Academy is subject to OCR’s jurisdiction under Section 504 and Title II.

This letter summarizes the applicable legal standards, the information gathered during the investigations, and how the investigations were resolved.

Legal Authority:

Section 504 and Title II prohibit people, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of federal financial assistance or by public entities. 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130. People with disabilities must have equal access to recipients’ programs, services, or activities unless doing so would fundamentally alter the nature of the programs, services, or activities, or would impose an undue burden. 28 C.F.R. § 35.164. Both Section 504 and Title II prohibit affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that is unequal to the opportunity afforded others. 34 C.F.R.

§ 104.4(b)(1)(ii); 28 C.F.R. § 35.130(b)(1)(ii). Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others. 34 C.F.R. § 104.4(b)(2); 28 C.F.R.

§ 35.130(b)(1)(iii). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R.

§ 104.4(b)(1)(iv); 28 C.F.R. § 35.130(b)(1)(iv). Title II also requires public entities to take steps to ensure that communications with people with disabilities are as effective as communications with others, subject to the fundamental alteration and undue burden defenses. 28 C.F.R.

§ 35.160(a)(1). In sum, programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in ways that comply with Section 504 and Title II.

Investigation to Date:

During the course of the investigations, OCR examined a number of pages on the Academy’s website to determine whether they are accessible to persons with disabilities. These web pages included:

- Homepage- <https://www.nhaschools.com/schools/landmark/en/pages/default.aspx>
- Facebook- <https://www.facebook.com/TheLynxPrideYouTube-https://m.youtube.com/user/nhaschools>
- Log-in- https://www.nhaschools.com/_login/SignIn.aspx?ReturnUrl=/schools/landmark/en/pages/default.aspx
- calendar- <https://www.nhaschools.com/schools/landmark/en/At-the-School/Pages/Calendar.aspx>
- Meal program- <https://www.nhaschools.com/schools/landmark/en/At-the-School/Pages/School-Meals.aspx>
- Google Play- <https://play.google.com/store/apps/details?id=com.nhaschools.nhaschools>
- How to Apply- <https://www.nhaschools.com/schools/landmark/en/Apply/Pages/How-to-Apply.aspx>

OCR evaluated the above-listed pages and determined that some important content of the website could only be accessed by people who can use a computer mouse, which meant that content was not available to those who are blind, many who have low vision, and those with disabilities affecting fine motor control; some links were not meaningfully labeled; some forms were not properly labeled; and parts of the website used color combinations that made text difficult or impossible for people with low vision to see. These barriers deny persons with disabilities access to programs, services, and activities offered on the website and may impede the Academy’s communications with persons with disabilities.

Prior to the conclusion of OCR’s investigation, the Academy expressed an interest in voluntarily resolving this complaint. In order to conclude OCR’s investigations of this complaint, OCR would have had to conduct interviews, review documents, and examine a broader range of pages

on the Academy's website; OCR would have sought to learn, for example, whether the Academy had received previous complaints of inaccessible website content or functionality, and how those complaints were resolved; and whether their information technology staff members and personnel responsible for uploading content or maintaining web pages had received training in website accessibility. In light of the Academy's willingness to address their website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement would be appropriate.

Resolution Agreement:

The Academy submitted a signed resolution agreement (Agreement) to OCR on June 20, 2017. The Academy committed to take actions such as:

- identifying and adopting the specific technical standard(s)
- designating at least one individual (Web Accessibility Coordinator) and providing that individual with sufficient resources and authority to coordinate and implement the Web Accessibility Policy
- providing a procedure to ensure that online content and information obtained through online content provided or developed by third parties is accessible
- annual training for any staff (e.g. administrators, faculty, support staff, student employees) responsible for creating or posting online content to the Academy's website(s)
- an accessibility audit (Audit) to be completed at regular intervals under the direction of the Web Accessibility Coordinator, during which information provided by the Academy through its online content is measured against the technical standard(s) adopted in the Web Accessibility Policy. All problems identified through the Audit will be documented, evaluated, and, if necessary, remediated within a reasonable period of time; and
- informing students, prospective students, employees, guests, and visitors that they may report violations of the technical standard(s) used by the Academy, file a formal complaint through its Section 504 and Title II grievance procedure, and/or contact the Web Accessibility Coordinator with any accessibility concerns

This concludes our investigation of this complaint. We will continue to monitor the Academy's compliance with the Agreement until all the terms are satisfied. We will keep you apprised of monitoring activities related to this case.

This letter addresses only the issues listed above and should not be interpreted as a determination of the Academy's compliance or noncompliance with Section 504, Title II, or any other federal law in any other respect.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR. Additionally, complainants may have a right to file a private suit in Federal court whether or not OCR finds a violation.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will protect personal information to the extent provided by law.

We thank the District for its cooperation. We would like to specifically thank XXX for his assistance and professionalism. If you have any questions, you may contact XXX, Equal Opportunity Specialist, at XXX, or by E-mail at XXX

Sincerely,

/s/

XXX
Supervisory Attorney

Cc: Dr. Chris Fielder
Superintendent

Dr. Katy Anthes, Commissioner
Colorado Department of Education